



California State Board of Pharmacy

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STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

PETE WILSON, GOVERNOR

**DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF PHARMACY
SOUTHERN COMPLIANCE COMMITTEE MEETING
MINUTES**

DATE: February 16, 1999

TIME: 1:00 p.m. – 2:36 p.m.

LOCATION: Van Nuys State Building
Auditorium
6150 Van Nuys Boulevard
Van Nuys, CA 91401

BOARD MEMBER
PRESENT: Holly Strom, Chairperson
John Jones, Board Member
Steve Litsey, Board Member

STAFF
PRESENT: Gilbert Castillo, Supervising Inspector
Dolly Harris, Pharmacy Inspector
Linda Kapovich, Enforcement Technician

ALSO
PRESENT: Bernard J. Wapner, RPH, PIC
Saieid Ghadrdan Mohamad-Poor, RPH, Owner
Lina Yazmin Echeverria, TCH
Claudia H. Myles, Pharmacist-Attorney
Scott M. Lampe, RPH
Roger Van Tran, RPH
John Young, Regional VP of Government and Trade Relations
Roger Tran, Pharmacy Manager
Lonnie Hirabayashi, Pharmacy Development Manager
John Meloni, Attorney at Law
Michael A. Amendola, Attorney at Law
Deborah Johnson, RPH
Shital R. Amin, RPH
Mahmoud A. Lebada, RPH, PIC
Richard Martland, Attorney at Law
Larry Beierle Jr., Pharmacy Development Manager
Mahmud Lebaclu, Pharmacist

CALL TO ORDER

Chairperson Holly Strom called the meeting of the Southern Compliance Committee to order at 1:00 a.m.

A. DISCIPLINARY APPEARANCES

1. Bernard J. Wapner, RPH 20463, PIC CI 97 14845
Saieid Ghadrddan Mohamad-Poor, RPH 43227, Owner
Lina Yazmin Echeverria, TCH 10807

Lynwood Bell Pharmacy, PHY 39394
9910 Long Beach Blvd. #F
Lynwood, CA 90262

Claudia H. Myles, Pharmacist-Attorney

Bernard J. Wapner, Lina Yazmin Echeverria, and Saieid Ghadrddan Mohamad-Poor appeared before the Southern Compliance Committee as the result of an investigation that revealed that on Saturday August 1, 1998, the technician was observed working in Lynwood Bell Pharmacy without the pharmacist being present. The technician admitted that she opened the pharmacy and was in possession of the keys to the pharmacy. The technician was also observed typing prescription labels from Medi Cal Eligibility forms, which are not legitimate prescriptions because they did not contain the doctor's signature, name, strength and quantity of drug or directions for use.

- Business and Professions Code section 4301 (c) – Unprofessional conduct.
- Business and Professions Code section 4329 –Misdemeanor: Non-pharmacist owner failing to place pharmacist in charge, dispensing or compounding except by pharmacist, interfering with pharmacist in charge.
- Business and Professions 4116 (a) – Security of dangerous drugs and devices in pharmacy: Pharmacist responsibility for individuals on premises; regulations.
- California Code of Regulations section 1714 (d) Building standards and security; possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.
- Business and Professions Code section 4040 – Prescription; content requirements.

Ms. Myles stated that as she understood this matter, it was a result of anonymous complaints against the pharmacy. Ms. Myles explained that just prior to these complaints, RPH Wapner had to terminate a pharmacy employee. Upon termination the employee made threats to ruin the business of the pharmacy.

Ms. Myles continued that RPH Wapner is the PIC at the pharmacy, where he works six days a week, and has been employed at the pharmacy for many years. On the day of the violation TCH Echeverria was alone in the pharmacy because RPH Wapner had gone out of town. On his trip home his car had broken down and he was stranded. The pharmacy inspector arrived prior to TCH Echeverria's being able to page RPH Mohamad-Poor, and make him aware of the situation.

TCH Echeverria stated that she understands what she did was in violation of pharmacy law, she added that she would never do it again.

RPH Wapner apologized for this unfortunate situation, and stated that the pharmacy keys are no longer available to non-pharmacist personnel.

The committee asked RPH Wapner what are the emergency procedures for the pharmacy.

RPH Wapner responded that the procedures will be put in writing, and explained that the only staff that, have access to the licensed area are registered pharmacists.

M/S/C: Strom/Jones

The committee accepted the appearance of Bernard J. Wapner, Lina Yazmin Echeverria, Saied Ghadrnan Mohamad-Poor, and Lynwood Bell Pharmacy; (a) the matter will be made a part of the record of Bernard J. Wapner, RPH 20463, Saied Ghadrnan Mohamad-Poor, RPH 43227, and Lynwood Bell Pharmacy, PHY 39394; (b) Submit a written policy and procedure to the board within 30 days; (c) A follow up inspection is to be performed within the next 90 days. No further action will be taken at this time.

2. Scott M. Lampe, RPH 42512
Roger Van Tran, RPH 44467
Virgil P. Comstock, RPH 24023, PIC

CI 96 14119

Rite Aid Pharmacy #5845, PHY 42837 (formerly PHY 40224)
840 North China Lake Boulevard
Ridgecrest, CA 93555

John Young, Regional VP of Government and Trade Relations Rite Aid Corporation
Lonnie Hirabayashi, Pharmacy Development Manager, Rite Aid Corporation

John Meloni, Attorney at Law

Michael A. Amendola, Attorney at Law

Scott M. Lampe and Roger Van Tran appeared before the Southern Compliance Committee as the result of an investigation that revealed that RPH Lampe dispensed Retrovir 100mg. on a prescription calling for Ritonavir 100mg. The investigation also proved that the patient did not receive patient consultation as required. The patient had no irreversible adverse reactions, according to the medical staff that were contacted.

On August 25, 1997 a violation notice was issued to Scott M. Lampe, and Payless drug store #5845 for violation of:

- Business and Professions Code section 4301 (n) – Unprofessional conduct.
- California Code of Regulations section 1716 – Variation from prescriptions.
- California Code of Regulations section 1707.2-(b) (1) – Duty to consult.

On April 23, 1998 a violation notice was issued to Scott M. Lampe, Roger Van Tran, and Payless Drug Store #5845 for violation of:

- Business and Professions Code section 4301 (n) – Unprofessional conduct.

RPH Comstock did not appear at this meeting as requested. The committee decided that due to RPH Comstock not being directly involved in the violation, his appearance will be dismissed.

Mr. Meloni requested a chance to review the evidence with his client.

The committee granted his request.

Mr. Meloni addressed the committee stating that the physician misspelled the name of the medication. The physician incorrectly spelled Ritonavir as (Retonovir). Using the prefix (Ret) and the suffix (ovir) which are consistent with the drug Retrovir which has been on the market for over a

decade. Mr. Meloni continued that both medications are administered for the same disease. Mr. Meloni added that the dosage prescribed by the physician was inconsistent with the recommended dosage for Ritonavir, while at the same time being consistent with the dosage normally prescribed for Retrovir. He further stated that the incident took place on a holiday weekend, and the physician could not be reached.

Mr. Meloni continued his address to the committee discussing RPH Lampe's consultation requirements with the patient. Mr. Meloni stated that due to the length of time that has passed since the incident, RPH Lampe could not remember if he provided consultation or not.

RPH Tran explained that a few days after the medication was dispensed to the patient, the physician's office called. The physician's staff requested the original prescription be faxed to their office. RPH Tran asked the caller if anything was wrong, to which the caller stated "no," that the physician just wanted to see what she had written on the prescription document. RPH Tran told RPH Lampe of the physician's request, and advised RPH Lampe to contact the physician. RPH Lampe assured RPH Tran that he would contact the physician.

The committee asked RPH Lampe at the time of the incident, what was the pharmacy's policy for marking prescriptions for patient consultation.

RPH Lampe responded that they used a red C stamp.

The committee admonished those present that certainly this was a time of confusion regarding Retrovir and Ritonavir. It is part of the pharmacist's responsibility to recognize new drugs as they come out. As to the statement that the physician was not available on the holiday weekend, physicians all have message services. It may have not been an immediate answer, but a physician could have been reached.

The committee asked those present what is the pharmacy procedure for documenting medication errors, and what procedures are in place to prevent future errors.

Mr. Hirabayashi stated that the pharmacy has been filling out incident forms, but the Rite Aid Corporation is moving into a paperless system. All future reports will be made in an e-mail type reporting system.

Mr. Young stated that in an error of this type, every effort would have been made to resolve the error at the store level. The problem with this incident, was that the error was not reported to the store until 23 months after it occurred.

M/S/C: Jones/Litsey

The committee accepted the appearance of Scott M. Lampe, Roger Van Tran, and Rite Aid #5845; (a) the matter will be made a part of the record of Scott M. Lampe, RPH 42512, Roger Van Tran, RPH 4467, and Rite Aid #5845, PHY 24023. No further action will be taken at this time.

3 Paul Granger, Non Licensed
Deborah Johnson, RPH 30989
Shital R. Amin, RPH 46664
Mahmoud A. Lebada, RPH 41850, PIC

CI 97 14595

Rite Aid #5756
6767 Westminster Boulevard
Westminster, CA 92683
PHY 42625

John Young, Regional VP of Government and Trade Relations Rite Aid Corporation

Larry Beierle, Pharmacy Development Manager

Richard Martland, Attorney at Law

Deborah Johnson, Shital R. Amin, and Mahmoud A. Lebada appeared before the Southern Compliance Committee as the result of an investigation that revealed that Paul Granger, an out-of-state pharmacist, unlicensed in California, filled prescriptions at Rite Aid #5756 during June 1997.

On August 6, 1998 a violation notice was issued to Paul Granger, Deborah Johnson, Shital R. Amin, and Mahmoud A. Lebada, and Rite Aid #5756 for violation of:

- Business and Professions Code section 4301 (n) – Unprofessional conduct.
- Business and Professions Code section 4051 (a) – Conduct limited to pharmacist.
- California Code of Regulations section 1793.1 – Duties of a registered pharmacist.
- Health and Safety Code section 11207 – Only a pharmacist or an intern may fill controlled substance prescriptions.
- Business and Professions Code section 4113 – Pharmacist in charge – Notification and responsibilities.

Paul Granger did not appear as requested to this meeting.

Mr. Young explained that Mr. Granger had been brought to California to train the pharmacy staff on the new computer system. Rite Aid has a crew of employees that travel around the country training staff, they are referred to as “Lifeguards”.

Mr. Young also stated that it is his opinion that the initials in question are those of RPH Andrew Tran, who was on duty during the "graveyard" shift at that time. Mr. Young added that he has questioned Mr. Granger, who denies ever filling a prescription in California.

Mr. Young provided a sample of Andrew Tran's initials for the committee to review.

Mr. Martland also provided the committee with samples. Mr. Martland had cut out the prescriptions, from the copies provided to him by the Board of Pharmacy. Each prescription also had a sample of Mr. Granger's initials next to it. Mr. Martland explained that the strongest detail of Mr. Granger's initials was the "P". It is Mr. Martland's opinion that none of the initials in question has a mark that resembles those of Mr. Granger's "P's."

The committee stated that Paul Granger was scheduled to work from 8:00 a. m. to 9:00 p. m. No other pharmacy personnel was scheduled to work prior to 9:00 a.m. The committee questioned those present as to what Mr. Granger would have been doing while alone in the pharmacy.

RPH Amin responded that the pharmacy was very busy at that time, so she was coming in early at 8:00 a.m. to catch up on prescriptions not filled the previous day. RPH Amin added that Mr. Granger was typing labels for her while she filled the prescriptions.

Mr. Beierle added that the way the "lifeguards" were used, and this all staff were made aware of this, "lifeguards" were strictly for training on the computer, and as ancillary help in the pharmacy.

RPH Amin reiterated that only she and RPH Lebada had keys to the pharmacy. At no time were keys to the pharmacy provided to Mr. Granger.

The committee expressed concern with regard to the issue of no pharmacist-in-charge (PIC) being registered with the Board of Pharmacy.

RPH Johnson responded that she terminated her employment with the company on June 14, 1997. It had always been the policy of Thrifty's to notify the Board of Pharmacy when there was a PIC change. RPH Johnson added that she did not know she was also required to notify the board until late August 1997. At that time RPH Johnson was applying to be PIC at another pharmacy.

The committee asked Mr. Young what is Rite Aids policy on notifying the Board of Pharmacy of a change in PIC.

Mr. Young responded that the policy now, is an e-mail form that is sent to the licensing department in their Pennsylvania office. The Pennsylvania office has one person, whose sole responsibility is to process change in PIC forms.

M/S/C: Jones/Litsey

The committee accepted the appearance of Deborah Johnson, Shital R. Amin, and Mahmoud A. Lebadia; (a) the matter will be made a part of the record of Deborah Johnson, RPH 30989, Shital R. Amin, RPH 46664, and Rite Aid #5756, PHY 42625. No further action will be taken at this time.

4	Harshad S. Patel, RPH 46173 Andrew Chacon, RPH 19360, PIC, Owner The Medicine Shoppe 10130-B Main Street Lamont, CA 93241 PHY 40541	CI 96 14268
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This case was postponed prior to this meeting of the Southern Compliance Committee and will be rescheduled to a future meeting of the Southern Compliance Committee tentatively scheduled for February 16, 1999.

There being no additional discussion, the meeting was adjourned at 2:36 p.m.